

REGULATION

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Subject: LEAVE OF ABSENCE			

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1. PURPOSE

This regulation set forth the standards for approval and administration of leave of absence, including family care leave.

2. CIVIL SERVICE COMMISSION RULE REFERENCE

A. 2-10 Leave of Absence with Pay

2-10.1 Authorization

An appointing authority may authorize salary payments to an employee to attend school, visit other governmental agencies, or undertake any other systematic improvement of the knowledge or skills required in the employee's work. Salary payments may be in whole or in part.

2-10.2 Administrative Leave

An appointing authority may grant administrative leave with pay for necessary absence from duty, for which annual, sick, or other leave with pay is not applicable. Additionally, the appointing authority must grant administrative leave when specifically required by the civil service commission.

B. 2-11 Leave of Absence without Pay

Authorization

An appointing authority may grant an employee a leave of absence without pay and without loss of employment status. Additionally, the appointing authority must grant a leave of absence without pay when specifically prescribed by the commission.

2-11.2 Restoration to Position

When an authorized leave of absence expires, **Error! Bookmark not defined.**the employee must be restored to the position formerly occupied or an equivalent position. The appointing authority may approve restoration before the expiration of the leave.

2-11.3 Abolishment of Position

If the position of an employee is abolished during a leave of absence without pay, the employee is returned to the classified service in accordance with rule 2-4.

2-11.4 Annual Leave Balance

- (a) **Retention during leave.** An employee may choose to retain an annual leave balance during a leave of absence in accordance with the official compensation plan.
- (b) **Limitation and exception.** Payment for annual leave due an employee who does not return from a leave of absence is at the employee's last rate of pay

2-11.5 Medical Leave of Absence

An appointing authority may grant a medical leave of absence without pay for up to 6 months to an eligible employee whose sick leave is exhausted. An employee is eligible for a medical leave of absence only if the employee has the equivalent of at least 6 months full-time employment at the time the leave is granted. If an employee on medical leave requests an extension before the leave expires, an appointing authority is authorized to extend the leave to a maximum of one year. Any extension of a medical leave beyond one year requires the written approval of the state personnel director.

C. 2-12 Waived Rights Leave of Absence

An appointing authority may grant a waived rights leave of absence without pay for up to one year to an employee if the employee has the equivalent of at least 6 months

full-time employment at the time the leave is granted. Any extension beyond one year requires the written approval of the state personnel director. An employee granted a waived rights leave of absence cannot carry any annual leave balance during the leave. An employee on a waived rights leave has no right to return to the position formerly occupied or to an equivalent position upon expiration of the leave. If the employee returns to the classified service before the expiration of the waived rights leave through normal selection processes, the employee is not considered to have had a break in service. If the employee does not return to the classified service before or upon the expiration of the leave, the employee is separated.

3. DEFINITIONS

- 1.A.** *Leave of absence with pay* ~~—means Approved~~ approved absence without use of annual or sick leave credits during which the employee continues to receive compensation, fringe benefits, and service credits.
- 2.B.** *Leave of absence without pay* ~~—means An~~ an approved absence without use of annual or sick leave credits during which the employee does not receive compensation, fringe benefits, or service credits.
- 3.C.** ~~Terminal or w~~ *Waived rights leave of absence* ~~—means Same as~~ an approved leave of absence without pay. ~~except that t~~ The appointing authority is not required to ~~accept~~ return the employee ~~back upon completion~~ expiration of the leave.
- 5.D.** *Family care and medical leave under the federal Family and Medical Leave Act* ~~—means~~ an approved leave of absence up to twelve work weeks during any twelve month period. The employee continues to receive compensation, fringe benefits, and service credit if using accrued paid leave credits; or, the employee does not use paid leave credits (unpaid leave of absence) and the employer and employee continue to contribute their respective share of any health plan benefits.

When the employee takes an approved leave of absence under the Family and Medical Leave Act using accrued paid leave credits, the employer's contribution to health plan benefits will count toward meeting the obligation to maintain such benefits.

4. STANDARDS

- A.** *Military leave of absence and leave because of injury or assault* are dealt with separately. (See Civil Service Rule 2-513 and ~~Compensation Procedure 14,~~ Page Regulation 5.13-).

B. General Provisions

1. Subject to the limitations included in this section, the appointing authority has the discretion to grant a leave of absence, as well as to determine the length of the leave. ~~Six months has been generally accepted as the standard length of leaves of absence, but a leave may be approved for a greater or lesser length of time.~~ An appointing authority may grant a medical leave up to six months. If an employee requests an extension before the leave expires, an appointing authority may extend the leave up to a maximum of one year.
2. An employee currently on a leave of absence may request early termination of the leave. The granting of such requests is at the discretion of the appointing authority.
3. ~~Upon expiration of a leave of absence, a~~ An employee may request an extension prior to expiration of a leave of absence. Approval of the extension is at the discretion of the appointing authority, within the one year maximum.
4. Except in the case of a waived rights leave of absence, the appointing authority must restore the employee to the position formerly occupied, or to an equivalent position ~~of equal responsibility~~.
 - a. In the event that the employee's position has been abolished while the employee is on leave of absence, the employee ~~shall~~ will be returned to the classified service in accordance with the employee preference rule (Civil Service Rule 2-~~194~~).

G.A. Leave of Absence with Pay — Employee ~~shall~~ will receive the following:

1. Payment for the standard hours of work at the base rate of pay.
 - a. The employee ~~shall~~ is not ~~be~~ compensated for any premium, unless the employee would be eligible for such premium payment while on approved annual or sick leave under normal conditions.
2. Full service credit for the number of hours that the employee would have been scheduled to work.
3. Full fringe benefit coverage as if regularly employed.

D.B. Leave of Absence without Pay — Employee ~~shall~~ will not receive service credit, nor ~~shall~~ will the employee be eligible for fringe benefits for the time spent on ~~such~~ the leave of absence, except that the employee may be eligible for continuation of health plan

benefits in accordance with the Family and Medical Leave Act, or health and life insurance, in accordance with provisions of state sponsored insurance plans.

1. Upon return to state service from an approved leave of absence without pay, the employee ~~shall~~is not ~~be~~ considered to have a break in service.
2. The employee ~~shall~~will be returned at the same step of the salary range, continue accumulating current service hours, hours towards the next salary step and any other accumulations as if the employee has not ~~missed periods of work~~been absent.

E.C. Family Care and Medical Leave of Absence

1. Eligibility — Eligible employees are those ~~employees~~ who have satisfactorily completed an initial probationary period and have worked at least 1,250 hours in the previous twelve month period.

~~Where an initial probationary period exceeds 1040 hours, an eligible employee means an employee who has been employed with the state for at least twelve months and has worked at least 1250 hours during the previous twelve month period.~~

~~Note: Regardless of the duration of the probationary period, the employee must have worked at least 1250 hours in the previous twelve month period.~~

2. Entitlement to Leave — Under the provisions of the Family and Medical Leave Act, an eligible employee is entitled to a total of twelve workweeks of leave during a twelve month period (beginning on the first date the employee's parental, family care, or medical leave is taken; the next twelve month period begins the first time leave is taken after completion of any previous twelve month period) for one or more of the following reasons:
 - a. Because of the birth of a son or daughter of the employee and in order to care for such son or daughter (parental leave).
 - b. Because of the placement of a son or daughter with the employee for adoption or foster care (parental leave).

Note: The provision for parental leave (~~Standard VI,B,1,a,Section F,2,a,(1)~~ of this ~~procedure~~regulation) under which up to six months of unpaid leave may be granted for the conditions described in ~~1a.~~ and ~~2b.~~, above, ~~shall be~~is applicable. The Family and Medical Leave Act does not extend the duration of parental leave.

- c. In order to care for the spouse, or a son, daughter, or parent of the employee, if such spouse, son, daughter, or parent has a serious health condition (family care leave).
 - d. Because of serious health condition that makes the employee unable to perform the functions of the position of such employee (medical leave).
- 3. Substitution of Paid Leave — An eligible employee who requests a family care or medical leave may elect, or the employer may require the employee to utilize accumulated paid leave credits for the period of leave except as specified below. Substitution of paid leave will count toward the eligible employee's twelve week entitlement.
 - a. Under sections ~~B.1.2.a.~~ and ~~B.2.2.b.~~ (parental leave) above, sick leave credits cannot be utilized.
 - b. Under section ~~B.3.2.c.~~ (family care leave) above, sick leave credits must be depleted to a balance of 80 hours prior to the commencement of an unpaid family care leave of absence.
 - c. Under section ~~B.4.2.d.~~ (medical leave) above, sick leave credits must be exhausted prior to the commencement of an unpaid medical leave of absence.
- 4. Unpaid ~~H~~Leave — ~~a~~An eligible employee may request a leave of absence without pay except as specified under part c above.
- 5. Duration of Leave
 - a. Any approval of an extension of a family care and medical leave beyond twelve workweeks during any twelve month period is at the discretion of the appointing authority. If an extension is approved, the employer's contribution to health plan benefits will not continue beyond the initial twelve workweeks during any twelve month period.
 - b. Scheduling of Leave
 - 1. Consecutive — the leave may be for a period not to exceed twelve consecutive workweeks, a traditional leave of absence.
 - 2. Cumulative — an eligible employee whose leave including any extensions totals less than twelve workweeks during any twelve month period, ~~shall~~will be granted a subsequent leave(s) up to a cumulative total of twelve workweeks

during the twelve month period (beginning on the first day of the employee's family care or medical leave).

3. Intermittent — reduced leave schedules

- a) Upon written request and when medically necessary, an employee is entitled to intermittent leave or a reduced work schedule for family care and medical purposes.
- b) An intermittent family care or medical leave ~~shall~~can not exceed a total of twelve workweeks during a twelve month period (beginning on the first day of the employee's family care or medical leave).
- c) If an employee takes leave on an intermittent or reduced leave schedule, only the amount of leave taken may be counted toward the twelve weeks of leave to which an employee is entitled.
- d) If an employee normally works less than full time, the amount of leave to which the employee is entitled is determined on a pro rata basis.

4. Alternative position — if an eligible employee requests an intermittent leave, or a reduced work schedule that is foreseeable based on planned medical treatment, the employer may require the employee to transfer temporarily to an alternative position for which the employee is qualified and that: 1) has equivalent pay and benefits; and 2) better accommodates recurring periods of leave than the regular employment position of that eligible employee.

F.D. Criteria and Limitations for Granting Leaves

1. Leave of absence with pay:

- a. Commission rules restrict use of this type of leave to allow~~ing~~ employees to attend school, ~~visit other governmental agencies, or devote themselves in any approved manner to systematic improvements~~accept an assignment with another governmental entity, or undertake any other systematic improvement of the knowledge or skills required in the performance of their work.
- b. An employee summoned to jury service or subpoenaed as a witness for the people for testimony related to their regular job functions ~~shall be~~is paid the difference between the employee's pay for providing the service and the employee's regular rate of pay (excluding any travel allowance paid by the court) during the calendar period of absence. (Note: Should the employee elect to use annual leave to cover

the period of jury service, the employee is not required to reimburse the department for moneys received from the courts.)

- c. An employee absent from work as the result of closure or declared inaccessibility of the employee's work station ~~shall~~will be compensated and receive service and fringe benefit credits in accordance with the procedure for such circumstances (see ~~Procedure 6~~Regulation 5.06, Compensation Under Conditions of General Emergency, ~~Page D-56~~).
 - d. An employee may be eligible for payment, service, or fringe benefit credits for absence to engage in union activities or employee relations activities. (See Employee~~er~~ Relations Rule, Chapter 6 of Civil Service Rules.)
 - e. An employee ~~shall~~will be granted a leave of absence with pay on the date of a work incurred injury for any or all remaining regularly scheduled hours on the day of injury, if necessary.
2. Leave of absence without pay — An employee may be granted a leave because of extended illness, to further education, or for other appropriate reasons.
- a. Parental leave:
 1. Upon written request, a non-probationary employee ~~shall~~will be granted parental leave, not to exceed six months, because of the birth or adoption of a child, and not to exceed twelve workweeks because of the foster care placement of a child with the eligible employee. Up to twelve workweeks of parental leave granted because of the birth, adoption, or foster care placement of a child will count toward the entitlement under the Family and Medical Leave Act.
 2. An employee's entitlement to parental leave under the Family and Medical Leave Act ~~shall expire and must conclude~~expires within twelve months after the birth or placement of a child.
 3. Parental leave taken intermittently or on a reduced work schedule may be granted at the discretion of the appointing authority.
 4. Parental leave taken intermittently or on a reduced work schedule ~~shall~~cannot exceed a total of twelve workweeks during a twelve month period (beginning on the first day of the employee's parental leave).
 5. In those instances in which both spouses are covered by this policy, such leaves may be taken either concurrently or consecutively.

6. The employer's share of its contribution of health plan benefits while an employee is on parental leave will not exceed twelve workweeks during a twelve month period.

Note: An employee is considered non-probationary upon satisfactory completion of the employee's initial probationary period.

b. ~~Terminal or w~~Waived rights leave of absence.

1. An employee who ~~must~~ terminates state employment ~~for reasons beyond the employee's control~~ may be granted a waived rights ~~or terminal~~ leave of absence of up to one year. This type of leave of absence is granted ~~for the sole purpose of protecting~~ to protect the employee's continuous service ~~record~~, seniority and any benefits connected with length of service.
2. The department is not ~~obligated~~ required to accept the employee ~~back upon completion~~ during or upon expiration of the leave.
3. At any time during the period of the leave, the employee may seek reemployment with the original department or with any department. If successful, the employee ~~shall~~ will be treated as if returning from a regular leave of absence without pay.
4. If an employee is ~~unsuccessful in becoming reemployed, or chooses not to return to state employment by the expiration date, the employee shall not~~ returned to the classified service on or before the expiration date of the leave, the employee will be separated.

c. Leave of absence to accept unclassified appointment.

- d. An employee appointed to a position in the unclassified service may be granted leave of absence to cover the period the employee serves in ~~such~~ the unclassified position. The employee ~~shall~~ will receive service credit for serving in an unclassified position upon ~~the employee's~~ return to the classified service.

G.E. Treatment of Annual Leave for Employees on a Leave of Absence ~~or~~ Waived Rights Leave

1. An employee on a leave of absence with pay ~~(including family care and medical paid leave using accumulated leave credits)~~ shall will continue to accrue annual leave ~~credits in the same fashion as~~ when if the employee ~~was~~ is working.

- a. The employee ~~shall~~can not ~~be allowed to~~ accumulate annual leave ~~credits~~ in excess of the maximum established in the official compensation plan, except in those instances where the limitations are waived. (See ~~Procedure 9~~Regulation 5.09, Annual Leave, ~~Page D-68~~.)
2. Employee on leave of absence without pay ~~(including family care and medical leave without pay)~~:
 - a. The employee ~~shall~~does not ~~earn~~accrue annual leave ~~credits~~ during the period of the leave.
 - b. An employee may elect to be paid off for a part or all of the unused annual leave balance prior to entering into the leave.
 - c. An employee ~~shall be~~is allowed to carry up to 80 hours of annual leave during the period of leave.
 - d. The employee may carry forward any annual leave balance in excess of 80 hours only with the approval of the appointing authority.
 - e. Annual leave accruals carried forward ~~shall be made~~are available to the employee upon return from the leave of absence. (See ~~Procedure 9~~Regulation 5.09, Annual Leave, ~~Page D-68~~.)
3. An employee on a ~~terminal or~~ waived rights leave of absence ~~shall~~will be paid off for the annual leave balance upon entry into the leave, and may not carry any annual leave balance forward.
4. If an employee separates from the state service directly from a leave of absence, the employee ~~shall be~~is paid for unused annual leave at the rate of pay last received. If an employee fails to return from an unpaid parental, family care, or medical leave, the employer may recover group health insurance premiums paid by the employer in accordance with applicable law.

H.F. Treatment of Sick Leave during a Leave of Absence or Waived Rights Leave

1. An employee on leave of absence with pay ~~(including family care and medical leave paid using accumulated leave credits)~~ will continue to accrue sick leave ~~credits in the same manner as~~ when~~if~~ the employee ~~is~~was working.
2. An employee on a leave of absence without pay ~~(including family care leave without pay)~~ shall or a waived rights leave of absence does not ~~accumulate~~accrue sick leave

~~credits while on the leave.~~ The employee's sick leave balance is frozen during the leave.

~~3. An employee on a terminal or waived rights leave of absence shall not accumulate sick leave credits while on leave. The employee's sick leave balance is frozen during the leave.~~

~~4.3. An E~~employees who separates directly from a leave of absence, ~~shall~~ will have ~~their accrued~~ sick leave ~~balance~~ liquidated in accordance with the provisions of ~~Procedure 10~~ Regulation 5.10, Sick Leave ~~(Page D-74)~~.

CONTACT

Questions regarding this regulation should be directed to the Department of Civil Service, P.O. Box 30002, 400 South Pine Street, Lansing, Michigan 48909, (517) 373-3048 or 1-800-788-1766, or MDCS@state.mi.us.

NOTE: Regulations are issued by the State Personnel Director under authority granted in the State of Michigan Constitution and the Michigan Civil Service Commission Rules. Regulations that implement Commission Rules are subordinate to those Rules.